

Appln No.: 09/802,110
Amendment Dated: October 20, 2003
Reply to Office Action of June 19, 2003

each and every limitation of the claimed invention. This means that it is important to consider the language of the claims, and not a generalization of the general subject matter of the claims. In the present case, however, the Examiner has failed to show that the limitations of the claims are actually found in the cited reference. For this reason, the rejection should be withdrawn.

Claim 13 reads as follows:

13. A kit for sequencing one or more DNA regions from a genomic DNA sample or a microorganism, said kit consisting of, in packaged combination, **a single tube** of region-specific reagents for each DNA region to be sequenced and optionally one or more non-region specific reagents.

The Examiner has not taken into account the highlight words "a single tube" of region-specific reagents for each DNA region to be sequenced. Indeed, the Examiner states that Jordan teaches "a kit consisting of, in packaged combination, region specific reagents ..." Thus, the Examiner's characterization of the reference does not meet the limitations of the claims. There is no teaching in the reference that all of the region specific reagents are in a single tube, and indeed this would not make sense since the Jordan patent teaches performing two types of tests, one with hybridization probes and one by PCR fragment analysis. Thus, there can be no anticipation.

The Examiner also rejected claims 13, 14, 16, 25-26 and 28 as anticipated by US Patent No. 6,326,485 of Vasta. In this case, the Examiner states that the reference discloses a kit consisting of a single container (a fact which points out the error in the rejection over Jordan.). However, there is no instance in the Vasta patent where the patent actually makes such a disclosure. The Vasta patent at Col. 12, line 54- Col. 13, line 4 does disclose kits, and it states that the "kit preferably **comprises** a container having a pair of outwardly-directed PCR primers to the NTS region of the microorganism(s) being tested for. " This does not say that the kit **consists** of a **a single tube** of region-specific reagents for each DNA region to be sequenced. Thus, there is no anticipation.


The Examiner rejected claims 17-24 and 29-36 as obvious over the combination of US Patent No. 5,427,911 of Ruano, in view of Rao and Ahern. In making this rejection, the Examiner has not mentioned the limitations of claim 13, on which the rejected claims ultimately depend, and in particular, has not mentioned the recitation in claim 13 that the kit consist of a single tube of region specific reagents for each region to be sequenced. Looking at Fig 5 of Ruano and the accompanying text in Col. 6, particularly lines 34-38, it can be seen that Ruano does not disclose or suggest this limitation. The labeled primers A and B, which are region specific reagents, are placed into separate tubes 12. Clearly, these reagents must be in separate containers if they are to be used in this way, and therefore the limitations for claim 13 are not met. Rao does not offer anything further on this point. Indeed, Rao uses radiolabeled primers, all labeled with the same isotope. These must necessarily be kept separate because the labeled

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products cannot be distinguished. Finally, Ahern has no specific information on the contents of a kit, or the way in which it is arranged, only that kits may be desirable. Thus, Applicants submit that this rejection should be withdrawn.

For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,


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